

Applicants maintain that the vague restriction set forth in the Examiner's present restriction requirement are neither an appropriate restriction of the present invention nor in compliance with the requirement of MPEP 814. In accordance with MPEP 814, the restriction requirement must provide a clear and detailed record of the restriction requirement to provide a clear demarcation between restricted inventions so that it can be determined whether inventions claimed in a continuing application are consonant with the restriction requirement and therefore subject to the prohibition against double patenting rejections under 35 USC 121.

Applicants understand that the composition and use of products commensurate in scope with elected compounds are included in the elected group. Alternatively, if Applicants understanding is not correct, then Applicants request rejoinder of the subject matter of these claims, commensurate in scope with allowable compounds of the elected group. According to M.P.E.P. §821.04 and *In re Ochiai*, 71 F.3d 1565, 37 USPQ 1127 (Fed. Cir. 1995), rejoinder of product claims with process claims (or process for using in this instance) commensurate in scope with the allowed product claims is permitted following a finding that the product claims are allowable.

Applicants respectfully request clarification to ensure that all claimed subject matter is clearly embraced within a group subject to the Restriction Requirement to ensure that such subject matter may properly be claimed in a subsequent divisional application. Applicants maintain that the vague groupings are not appropriate, do not clearly define the invention claimed in each group, and inappropriately expose Applicants to a potential Double Patenting rejection when Applicants attempt to claim subject matter contained that is not clearly subject of restriction from this application.

Applicants further note that inventorship will be reassessed when the election of invention is finalized.

Conclusion

Applicants hereby elect the compound of Example 17, with traverse, as explained herein. Applicants request reconsideration regarding the grouping and issuance of a proper restriction requirement for the application. Applicants have elected a single species with traverse solely to further prosecution of the present application.

The Examiner is respectfully requested to contact the undersigned attorney on any matter related to this application.

Respectfully submitted,

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